

US DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

CIVIL NO. 05-11594 RCL

GERALDINE FAVALORO, for herself and on
behalf of all others similarly situated,

Plaintiff,

vs.

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE, BAYVIEW CREMATORY, LLC,
a New Hampshire Limited Liability Company,
LINDA STOKES, TRUSTEE OF THE DEKES
REALTY TRUST OF 107 SOUTH BROADWAY,
LAWRENCE, MASSACHUSETTS, and JOHN J.
GENTILE,

Defendants.

DEFENDANT BAYVIEW CREMATORY LLC.'S
PARTIAL JOINDER IN HARVARD COLLEGE'S MOTION TO DISMISS

Defendant Bayview Crematory LLC. ("Bayview") hereby partially joins in the Motion To Dismiss filed by the President And Fellows Of Harvard College ("Harvard's Motion"). More particularly, Bayview joins in, and adopts, the argument set forth in Section II,C,2,b of Harvard's Motion. See, Harvard's Motion, pp. 14-19.

As Harvard has argued in its motion, plaintiff does not allege that her decedent's remains were mishandled. Therefore, she fails to state a claim for common law intentional or negligent infliction of emotional distress.

WHEREFORE, Bayview requests this Court to dismiss plaintiff's common law claims against Bayview for the alleged intentional and negligent infliction of emotional distress.

Respectfully Submitted,

/s/ Andrew R. Schulman

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August 24, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this day been served on August 24, 2005 in the following manner:

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August 19, 2005

/s/Andrew R. Schulman,
Andrew R. Schulman